IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1137 of 2002

For Approval and Signature:

Hon'ble MR.JUSTICE D.H.WAGHELA Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

1 to 5 NO

DHANGDHRA TALUKA SAHAKARI KHARID-VECHAN SANGH LTD.

Versus

PRESIDING OFFICER

Appearance:

1. Special Civil Application No. 1137 of 2002

MR KR KOSHTI for Petitioner No. 1

..... for Respondent No. 1

MRS DT SHAH for Respondent No. 2

CORAM : MR.JUSTICE D.H.WAGHELA

Date of decision: 22/04/2002

ORAL JUDGEMENT

1. RULE. The learned counsel for the respondent waives service.

2. The learned counsel for the petitioner, after arguing at some length, fairly conceded that what was required by the impugned order dated 21.1.2002 was, in reality, the implementation of the earlier order below the application at Exh.16 dated 27.5.1997 under which the petitioner was required to deposit the amount of suspension allowance in the Labour Court. It appears from the record that, while adjudicating the dismissal dated 31.7.1990, the Labour Court had granted permission to the petitioner to lead evidence and prove the alleged misconduct of the respondent by order dated 5.8.1992. There is no explanation or justification to be found on record for the delay of about ten years in disposal of the case before the Labour Court. Under such circumstances, even after closure of the evidence of the petitioner, in fact, an order in favour of the petitioner is made on condition of payment of costs and implementation of the earlier order dated 27.5.1997 below Exh.16 which till now the petitioner had not cared to challenge.

3. In these facts and circumstances, the learned counsel on both sides fairly conceded that the reference before the Labour Court was required to be disposed at the earliest and a statement was made on behalf of the parties on both sides that they would fully cooperate in, as far as practicable, day-to-day conduct of the case and earliest disposal of the case. Since the earlier order dated 27.5.1997 below Exh.16 had not been challenged for five years, a petition to set aside the same does not lie and cannot be entertained. However, it is clear that, by virtue of that order, the minimum amount of suspension allowance is only required to be deposited in the Court and there is no order to disburse the amount to the respondent. The learned counsel agreed that upon the aforesaid amount being deposited within an extended time-limit, the parties would seek final disposal of the reference and also address the Labour Court about disbursement of that amount which shall be dependent upon the result of the reference case.

4. Accordingly, the petition is partly allowed. The time-limit set in the impugned order dated 21.2.2002 shall stand extended upto 22.6.2002. The Labour Court, Surendranagar shall take up the Reference (LCS) 6 of 1991 between the parties for disposal as expeditiously as possible and shall dispose the same preferably by the end of July, 2002. The Labour Court shall make appropriate order in the final award in respect of the amount that may be deposited by the petitioner by way of subsistence

allowance as per the impugned order. With these observations and directions, Rule is made absolute accordingly with no order as to costs.

Sd/-

(D.H.Waghela, J.)

22.4.2002
(KMG Thilake)